IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6713 OF 2003

Mahavir Raghunath Khatod ...Petitioner

Versus

Shri Kashinath Daulatrao Zade & Ors....Respondents

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Mr.K.S.Patil with Mr.P.N.Joshi for Petitioner.

Mr.Anilkumar Patil for Respondent No.1.

Mr.Pratap Patil for Respondent No.3.

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CORAM: A.M.KHANWILKAR, J.

AUGUST 31, 2004.

P.C.

1. Heard Counsel appearing for the parties.

2. Rule. Rule made returnable forthwith, by consent. Mr.Anilkumar Patil waives notice for Respondent No.1. Mr.Pratap Patil waives notice for Respondent No.3.

3. Respondent No.2 has been duly served with

notice along with order dated 7th October 2003 but none appears, which indicates that the matter will be finally disposed of at notice stage. Respondent No.4 is a formal party. Notice to Respondent No.4 is dispensed with.

4. As short question is involved, the matter is taken up for final disposal forthwith, by consent.

5. The only grievance made in this Petition is that the Revisional Authority has clearly exceeded jurisdiction in making observations against Office bearers of the Respondent Society in the proceedings, which were essentially questioning the correctness of the recovery certificate issued by the Assistant Registrar. Reference is specifically made to the observations in Paragraph 10 against the then office bearers of the Respondent Society. Counsel for the Respondent No.1 who had filed the Revision Application has no objection if the remarks and/or observations made against the office bearers are effaced from the record, nor the Counsel for Respondent No.3 has any

objection in that behalf.

6. In view of the concession made on behalf of Respondents 1 and 3, the Petition ought to succeed. Even otherwise, to my mind, it was inappropriate for the Revisional Authority to make observations against the Petitioner while disposing of the Revision Application in which the only question which was required to be considered was regarding the correctness of the recovery certificate issued by the Assistant Registrar in favour of the Respondent No.2 Society and against the Respondent No.1. In the circumstances, the only appropriate course, to my mind, is to expunge all the observations made against the Petitioner, particularly in paragraph 10 of the impugned Judgment. The Petition succeeds only to this limited extent, without disturbing the final order passed in Revision Application, as Respondent No.2 Society has not challenged the said decision nor chosen to appear in the present Writ Petition.

7. Petition disposed of on the above terms. No order as to costs.

A.M.KHANWILKAR, J.